

of Radioactive Materials as defined in 49 CFR part 173.403,” April 1, 2015; incorporation by reference approved for § 385.415(b).

(2) [Reserved]

[77 FR 59825, Oct. 1, 2012, as amended at 78 FR 56620, Sept. 13, 2013; 78 FR 58481, Sept. 24, 2013; 79 FR 27768, May 15, 2014; 80 FR 34841, June 18, 2015]

§ 385.5 Safety fitness standard.

The satisfactory safety rating is based on the degree of compliance with the safety fitness standard for motor carriers. For intrastate motor carriers subject to the hazardous materials safety permit requirements of subpart E of this part, the motor carrier must meet the equivalent State requirements. To meet the safety fitness standard, the motor carrier must demonstrate it has adequate safety management controls in place, which function effectively to ensure acceptable compliance with applicable safety requirements to reduce the risk associated with:

- (a) Commercial driver’s license standard violations (part 383 of this chapter),
- (b) Inadequate levels of financial responsibility (part 387 of this chapter),
- (c) The use of unqualified drivers (part 391 of this chapter),
- (d) Improper use and driving of motor vehicles (part 392 of this chapter),
- (e) Unsafe vehicles operating on the highways (part 393 of this chapter),
- (f) Failure to maintain accident registers and copies of accident reports (part 390 of this chapter),
- (g) The use of fatigued drivers (part 395 of this chapter),
- (h) Inadequate inspection, repair, and maintenance of vehicles (part 396 of this chapter),
- (i) Transportation of hazardous materials, driving and parking rule violations (part 397 of this chapter),
- (j) Violation of hazardous materials regulations (parts 170–177 of this title), and
- (k) Motor vehicle accidents and hazardous materials incidents.

[77 FR 28454, May 14, 2012]

§ 385.7 Factors to be considered in determining a safety rating.

The factors to be considered in determining the safety fitness and assigning a safety rating include information from safety reviews, compliance reviews and any other data. The factors may include all or some of the following:

- (a) Adequacy of safety management controls. The adequacy of controls may be questioned if their degree of formalization, automation, etc., is found to be substantially below the norm for similar carriers. Violations, accidents or incidents substantially above the norm for similar carriers will be strong evidence that management controls are either inadequate or not functioning properly.
- (b) Frequency and severity of regulatory violations.
- (c) Frequency and severity of driver/vehicle regulatory violations identified during roadside inspections of motor carrier operations in commerce and, if the motor carrier operates in the United States, of operations in Canada and Mexico.
- (d) Number and frequency of out-of-service driver/vehicle violations of motor carrier operations in commerce and, if the motor carrier operates in the United States, of operations in Canada and Mexico.
- (e) Increase or decrease in similar types of regulatory violations discovered during safety or compliance reviews.
- (f) For motor carrier operations in commerce and (if the motor carrier operates in the United States) in Canada and Mexico: Frequency of accidents; hazardous materials incidents; accident rate per million miles; indicators of preventable accidents; and whether such accidents, hazardous materials incidents, and preventable accident indicators have increased or declined over time.
- (g) Number and severity of violations of CMV and motor carrier safety rules, regulations, standards, and orders that are both issued by a State, Canada, or Mexico and compatible with Federal